

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JOHN WILSON, JOHN ARNOLD,
ROY COVEY, JAMES BRENT ENSEY,
EDGAR KELLEHER, BRIAN LOGAN,
TERRY S. MARTIN, ROBERT ROB-
ERTSON, JACOB WILSON, MITCH-
ELL BRADFORD, RICHARD LU-
THER, JOHN CRAFT, DANIEL
JOHNSON, JASON DILLARD,
RONALD ATTERBURY,

CIVIL NO. 1:17-CV-00453-ADA-JCM

Plaintiffs,

V.

CITY OF WACO, TEXAS, et al,

Defendants.

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske. ECF No. 79. The report recommends that Defendants Frost and Schwartz's Motions to Dismiss (ECF No. 26, 43, 46, 49, 52, 55); Defendants Abelino Reyna and McLennan County's Motions to Dismiss (ECF No. 27, 44, 47, 50, 53, 56); Defendants City of Waco, Brent Stroman, Manuel Chavez, Robert Lanning, Jeffrey Rogers, and Patrick Swanton's Motions to Dismiss (ECF No. 28, 45, 48, 51, 54, 57); and the City of Waco's Supplement to its Motion to Dismiss (ECF No. 76) be **GRANTED IN PART AND DENIED IN PART**. The report specifically recommends that the following claims be **DISMISSED**: Plaintiffs' Fourteenth Amendment claims against each Defendant; Plaintiffs' Fourth Amendment Malley claims against each Defendant; Plaintiffs' Fourth Amendment Franks claims against Stroman, Lanning, Swanton, Rogers, Frost, and Schwartz; Plaintiffs' conspiracy claims; Plaintiffs' claims against the City of Waco; and Plaintiffs' claims against the County. The report further recommends that Defendants' Motions to

Dismiss Plaintiffs' Franks claims against Reyna and Chavez be **DENIED**. The report and recommendation was filed on July 19, 2024.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider “[f]rivolous, conclusive, or general objections.” *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), overruled on other grounds by *Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Defendant Abelino “Abel” Reyna and McLennan County filed objection and amended objections on July 26, 2024. ECF No. 80, 81. Defendant Manuel Chavez filed objections on July 26, 2024. ECF No. 82. After the Court granted leave to file, Plaintiffs filed objections on August 9, 2024. ECF No. 85. The Court has conducted a *de novo* review of the motion to dismiss, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge’s findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske., ECF No. 79, is **ADOPTED**.

IT IS FURTHER ORDERED that Defendants’ and Plaintiff’s objections are **OVERRULLED**.

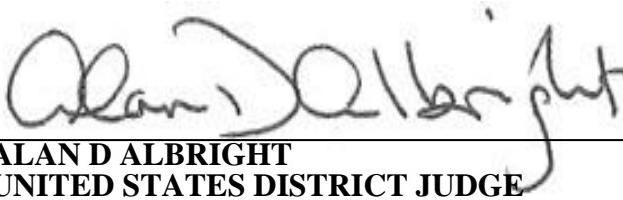
IT IS FURTHER ORDERED that Defendants Frost and Schwartz’s Motions to Dismiss (ECF No. 26, 43, 46, 49, 52, 55); Defendants Abelino Reyna and McLennan County’s Motions to Dismiss (ECF No. 27, 44, 47, 50, 53, 56); Defendants City of Waco, Brent Stroman, Manuel

Chavez, Robert Lanning, Jeffrey Rogers, and Patrick Swanton's Motions to Dismiss (ECF No. 28, 45, 48, 51, 54, 57); and the City of Waco's Supplement to its Motion to Dismiss (ECF No. 76) are **GRANTED IN PART AND DENIED IN PART** in accordance with the Report and Recommendation.

IT IS FURTHER ORDERED that the following claims be **DISMISSED** in accordance with the Report and Recommendation: Plaintiffs' Fourteenth Amendment claims against each Defendant; Plaintiffs' Fourth Amendment Malley claims against each Defendant; Plaintiffs' Fourth Amendment Franks claims against Stroman, Lanning, Swanton, Rogers, Frost, and Schwartz; Plaintiffs' conspiracy claims; Plaintiffs' claims against the City of Waco; and Plaintiffs' claims against the County.

IT IS FINALLY ORDERED that Defendants' Motions to Dismiss Plaintiffs' Franks claims against Reyna and Chavez be **DENIED** in accordance with the Report and Recommendation.

SIGNED this 13th day of August, 2024.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE